

1980, 94 Stat. 1961; Pub. L. 97-468, title II, § 234(b), Jan. 14, 1983, 96 Stat. 2547.)

REFERENCES IN TEXT

Section 909 of this title, referred to in subsec. (a), was in the original “section 10”, meaning section 10 of Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 741. Subsecs. (a) to (g) of section 10 are classified to section 909 of this title. Subsec. (h) of section 10 amended section 231f(b)(7) of this title.

The Rock Island Railroad Transition and Employee Assistance Act, referred to in subsec. (c), is title I of Pub. L. 96-254, May 30, 1980, 94 Stat. 399, which is classified principally to chapter 19 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 825 of this title, referred to in subsec. (d), was repealed by Pub. L. 105-178, title VII, § 7203(a)(2), June 9, 1998, 112 Stat. 477.

AMENDMENTS

1983—Subsec. (b). Pub. L. 97-468 struck out provision that, effective Oct. 1, 1980, there was authorized to be appropriated an additional \$1,500,000 for new career training assistance under section 911 of this title and section 1014 of this title.

1980—Subsec. (b). Pub. L. 96-254, § 109(b), inserted provisions authorizing an appropriation of an additional \$1,500,000, effective Oct. 1, 1980, for career training assistance under section 911 of this title and section 1014 of this title.

Subsec. (c). Pub. L. 96-254, § 109(a), inserted provisions authorizing the use of previously appropriated funds to carry out administrative expenses under the Rock Island Railroad Transition and Employee Assistance Act and authorizing an appropriation of an additional \$1,000,000, effective Oct. 1, 1980, to carry out administrative expenses under this chapter and the Rock Island Railroad Transition and Employee Assistance Act.

Subsecs. (d), (e). Pub. L. 96-448 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 14, 1980, see section 710(d) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

§ 914. Obligation guarantees

(a) Authorization

The Secretary of Transportation, under the authority of section 831 of this title, shall guarantee obligations of the Milwaukee Railroad for purposes of providing employee protection in accordance with the terms of the employee protection agreement entered into under section 908 of this title. Guarantees under this section shall be entered into without regard to the requirements of subsection (g) of section 831 of this title.

(b) Obligations as administrative expense

Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(c) Limit on aggregate unpaid principal amount

The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed \$75,000,000.

(d) Limit on total liability

The total liability of the Milwaukee Railroad in connection with benefits and allowances provided under an employee protection agreement entered into under section 908 of this title shall not exceed \$75,000,000.

(e) Liability of United States respecting section 908 agreements

Except in connection with obligations guaranteed under this section, the United States shall incur no liability to employees in connection with any employee protection agreement entered into under section 908 of this title.

(f) Applicability of section 836 of this title

Section 836 of this title shall not apply to any obligation guaranteed under this section.

(Pub. L. 96-101, § 15, Nov. 4, 1979, 93 Stat. 743; Pub. L. 96-448, title VII, § 701(a)(3), Oct. 14, 1980, 94 Stat. 1959.)

REFERENCES IN TEXT

Section 831 of this title, referred to in subsec. (a), was repealed by Pub. L. 105-178, title VII, § 7203(a)(2), June 9, 1998, 112 Stat. 477, except for subsec. (c) of that section, which was renumbered and transferred to section 823(b) of this title by section 7203(a)(4) of Pub. L. 105-178.

AMENDMENTS

1980—Subsec. (e). Pub. L. 96-448 inserted “to employees” after “no liability”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 14, 1980, see section 710(d) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title.

§ 915. Court approved abandonment and sales in pending cases

(a) Abandonment of lines of railroad under Bankruptcy Act

Notwithstanding any other provision of law, in any case pending under section 77 of the Bankruptcy Act on November 4, 1979, the court may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347¹ of title 49.

(b) Sale or transfer of lines of railroad under Bankruptcy Act

(1) Notwithstanding any other provision of law, in any case pending under section 77 of the Bankruptcy Act on November 4, 1979, the court may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection, if the application with respect to such sale or transfer is filed with the Commission on or after November 1, 1979. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347¹ of title 49.

¹ See References in Text note below.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

(3)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

(B) The Commission shall, within 15 days after the filing of an application under subparagraph (A) of this paragraph, determine whether the applicant—

(i) is a financially responsible person; and

(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

(C)(i) If the Commission's determination under subparagraph (B) of this paragraph is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the "parties") shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B) of this paragraph, either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D) of this paragraph, except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C) of this paragraph, the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph. Notwithstanding any

other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than that required as a constitutional minimum.

(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

(E) The Commission shall require that any person acquiring a line or lines under this paragraph use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

(G) The Commission shall, within 45 days after January 14, 1983, prescribe such regulations and procedures as are necessary to carry out the provisions of this paragraph.

(H) As used in this paragraph, the term—

(i) "carrier subject to liquidation" means a carrier which, on January 14, 1983, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11 and which has been ordered by the court to liquidate its properties;

(ii) "the court" means the court having bankruptcy jurisdiction over the carrier subject to liquidation; and

(iii) "financially responsible person" means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years.

(4) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer proposed in such application. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) Judicial review

Any action or order of the Commission approving, modifying, conditioning, or disapproving an application for the sale or transfer of rail property that is filed with the Commission before November 1, 1979, in connection with a case pending under section 77 of the Bankruptcy Act on November 4, 1979—

(1) is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5; and

(2) may not be stayed by the Commission.

(d) Authority of bankruptcy court

The authority of the bankruptcy court to authorize abandonments, sales, and transfers of

lines of the Milwaukee Railroad shall be governed by the provisions of section 904 of this title, rather than the provisions of this section.

(e) Effect on priorities and timing of employee protection payments

Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this chapter.

(Pub. L. 96-101, §17, Nov. 4, 1979, 93 Stat. 744; Pub. L. 97-468, title II, §213, Jan. 14, 1983, 96 Stat. 2544.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsecs. (a), (b)(1), (3)(H)(i), and (c), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

Section 11347 of title 49, referred to in subsecs. (a) and (b)(1), was omitted in the general amendment of sub-title IV of Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Provisions similar to those in section 11347 are contained in section 11326(a) of Title 49.

AMENDMENTS

1983—Subsec. (b)(3), (4). Pub. L. 97-468 added par. (3) and redesignated former par. (3) as (4).

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND
TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1009, 1018 of this title.

§ 916. Repealed. Pub. L. 104-88, title III, §328, Dec. 29, 1995, 109 Stat. 952

Section, Pub. L. 96-101, §18, Nov. 4, 1979, 93 Stat. 746; Pub. L. 96-254, title I, §116, May 30, 1980, 94 Stat. 405, provided that this chapter be in lieu of directed service on any line of the Milwaukee Railroad with certain exceptions.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 917. Applicability of National Environmental Policy Act

The provisions of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] shall not apply to transactions carried out pursuant to this chapter.

(Pub. L. 96-101, §19, Nov. 4, 1979, 93 Stat. 746.)

REFERENCES IN TEXT

The National Environmental Policy Act, referred to in text, probably means the National Environmental

Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 918. Authority of Railroad Retirement Board

(a) The Board may prescribe such regulations as may be necessary to carry out its duties under this chapter.

(b) In carrying out its duties under this chapter, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 362 of this title as are not inconsistent with the provisions of this chapter.

(Pub. L. 96-101, §20, Nov. 4, 1979, 93 Stat. 746.)

§ 919. Publications and reports

(a) Within 30 days after November 4, 1979, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 907, 908, 909, 910,¹ and 911 of this title.

(b) During the 2-year period beginning on November 4, 1979, the Board shall submit a report to the Congress every 6 months describing its activities under this chapter.

(Pub. L. 96-101, §21, Nov. 4, 1979, 93 Stat. 746.)

REFERENCES IN TEXT

Section 909 of this title, referred to in subsec. (a), was in the original "section 10", meaning section 10 of Pub. L. 96-101, Nov. 4, 1979, 93 Stat. 741. Subsecs. (a) to (g) of section 10 are classified to section 909 of this title. Subsec. (h) of section 10 amended section 231f(b)(7) of this title.

Section 910 of this title, referred to in subsec. (a), was repealed by Pub. L. 97-35, title XI, §1144(b), Aug. 13, 1981, 95 Stat. 669.

§ 920. Continuation of service

(a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 905(a) of this title;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 905(c) of this title.

¹ See References in Text note below.